



Request for Decision Bylaw Amendment Application

File No: P 723 104
Reference: Bylaw Nos. 3225 & 3226
Date: March 30, 2023

Subject: Bylaw No. 3225 & Bylaw No. 3226 (Dicken Rd / Ayars)
Applicant: Daniel Ayars
Agent: McElhanney – Ryan Richmond
Location: 1643 Dicken Rd. north of the City of Fernie
Legal: Part of Lot 10, District Lots 6393 and 11707, Kootenay District, Plan 1411 (PID: 011-469-994)

Proposal: To amend the OCP and Zoning designation for part of the subject property from RR, Rural Resource to LH, Large Holdings and from RR-8, Rural Residential (Country) Zone to RR-2, Rural Residential (Small Holdings) Zone to facilitate future residential subdivision.

Development Agreement: None

- Options:**
1. THAT Bylaw No. 3225 cited as “Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014 – Amendment Bylaw No. 18, 2023 (Dicken Rd / Ayars)” be introduced and further, that the Board is satisfied that the OCP consultation identified in the staff report is appropriate.
 2. THAT Bylaw No. 3226 cited as “Regional District of East Kootenay – Elk Valley Zoning Bylaw No. 829, 1990 – Amendment Bylaw No. 108, 2023 (Dicken Rd / Ayars)” be introduced.
 3. THAT Bylaw No. 3225 cited as “Regional District of East Kootenay – Elk Valley Official Community Plan Bylaw No. 2532, 2014 – Amendment Bylaw No. 18, 2023 (Dicken Rd / Ayars)” not proceed.
 4. THAT Bylaw No. 3226 cited as “Regional District of East Kootenay – Elk Valley Zoning Bylaw No. 829, 1990 – Amendment Bylaw No. 107, 2023 (Dicken Rd / Ayars)” not proceed.

Recommendation: Options 1 & 2
In March 2021, the RDEK Board supported a proposed ALR subdivision to create 5 parcels on the condition that the ALR boundary be amended so that residential subdivision occurred outside of the ALR. Submission of the ALR subdivision application to the ALC was postponed at the request of the applicant, pending consideration of a ALR Exclusion Application. The exclusion application was subsequently made by the RDEK and approved by the ALC in November 2022.

Considering the 2022 exclusion approval, the proposal aligns with OCP Policies, while maintaining the agricultural character of the Dicken Rd. subarea.

**Property
Information:**

Current OCP Designation:

RR, Rural Resource which supports agricultural, rural residential and rural resource land uses with parcel sizes 8.0 ha and larger. The RR designation also recognizes the use of these lands for public utility use, resource extraction, green space and recreation.

Proposed OCP Designation:

LH, Large Holdings which supports rural residential development and rural resource land uses on parcels sizes in the range of 2.0 ha to 8.0 ha.

OCP Objectives & Policies:

- A limited increase in the number of new lots, generally reflective of the existing rural character of the surrounding parcels, within the plan area is supported.
- All rezoning applications within the plan area will be reviewed on an individual basis in relation to the following considerations:
 - compatibility of the proposed lot size and density with existing and surrounding land uses, parcel sizes, local rural character and lifestyle;
 - the capability to provide onsite disposal in accordance with provincial requirements;
 - potential impacts of the proposal on the quality and quantity of existing groundwater resources;
 - integration of the Conservation Subdivision Design provisions;
 - identification and mitigation of development impacts on environmentally sensitive areas including grasslands, connectivity corridors, wetlands and riparian areas and old growth forests;
 - susceptibility to natural and geotechnical hazards and integration of hazard mitigation strategies;
 - for land located within the ALR, potential impacts or benefits of the proposed subdivision on the agricultural capability and suitability of both the parcel proposed for subdivision and on neighbouring parcels.
- Rezoning applications to enable residential subdivision are generally not supported in the following locations:
 - along Coal Creek Road;
 - between the Dicken Road Subarea and Sparwood, but excluding the Hosmer Subarea; and
 - Corbin.

The following policies are intended to maintain the rural nature of the Dicken Road Subarea:

- Development is encouraged to be compatible with the character of the surrounding parcels in order to maintain the rural nature of the Dicken Road Subarea.
- Maintaining the agricultural character, which contributes to the economy of the Dicken Road Subarea, is supported.
- Subdivision of land in the ALR which will have a negative impact on agricultural capability or suitability is generally not supported.
- In the Dicken Road Subarea subdivision of land, which is not located within the ALR, to a parcel size smaller than 8.0 ha is generally not supported.

**Property
Information -
Cont'd:**

- Minimum parcel sizes less than 8.0 ha may be considered provided all of the following criteria have been met:
 - the proposed subdivision involves the creation of a maximum of two new parcels;
 - the parent parcel proposed for subdivision has not been subdivided in the ten years preceding the application date, this criteria does not apply in extraordinary personal circumstances as determined by the RDEK Board;
 - there is demonstrated support for the subdivision proposal from the owners of most adjacent privately owned parcels; and
 - the proposed subdivision involves no new parcels less than 2.0 ha in size;
 - the proposed subdivision will have not potential negative impact on agricultural capability and suitability of both the parcel proposed for subdivision and on neighboring parcels.
- Rezoning applications are encouraged to include a commitment to register on title a restrictive covenant or statutory building scheme directing the construction of buildings away from the centre of parcels and towards the corners of parcels to enable future subdivision of the parcel.

Current Zoning:

RR-8, Rural Residential (Country) Zone - 8.0 ha (19.8 acres) minimum

Proposed Zoning:

RR-2, Rural residential (Small Holding) Zone - 2.0 ha (4.9 acres) minimum

Parcel Size:

Parcel: 50 ha (123.42 ac)

Portion Proposed for rezoning: ~6.85 ha (16.9 ac)

Density:

One (1) single family dwelling or one (1) two family dwelling per parcel

ALR Status: Partially within the ALR

Interface Fire Hazard Rating: Low & Moderate, within the Hosmer fire service area

BC Assessment: Residential and Farm

Water and Sewer Services: Onsite Water and Sewer

**Professional
Studies:**

None

**Additional
Information:**

- ALC Resolution 421/2022 approved exclusion for a 1.95 ha portion of the subject parcel as shown on Schedule A to the decision in the documents attached.

**Additional
Information
cont'd:**

- Part of the subject property is within an area of higher archaeological potential; the applicant has been notified. The Archaeology Branch of the Province of BC is responsible for the administration of the *Heritage Conservation Act*.
- Ministry of Transportation and Infrastructure approval is required due to the property being within 800 m of a numbered highway.

Consultation:

Section 475 of the *Local Government Act* requires that local government consider the depth and breadth of consultation to be undertaken with persons or organizations that it considers may be affected by the proposed OCP amendment. Consultation completed to date for this amendment includes referral of the bylaw to the following organizations. In addition, there will be opportunity for discussion with the public prior to the commencement of the public hearing.

APC Area A: Support Recommended

Referral Agencies:

- **Agricultural Land Commission:** No concerns
- **Interior Health Authority:** No response to date
- **Transportation & Infrastructure:** Interests unaffected by the proposed amendment, although the applicant should be aware that road and drainage improvements may be required as part of subdivision.
- **Environment:** No response to date
- **Ktunaxa Nation Council:** No response to date
- **Tobacco Plains First Nation:** Interests Unaffected, see additional information regarding Archaeological Site.
- **School District No. 5:** No response to date
- **Telus:** No response to date

In addition to the consultation above, two letters of support have been received from direct neighbors.

**Documents
Attached:**

- Bylaws
- Location Map
- Land Use Map
- OCP Designation Map
- Zoning Designation Map
- Aerial Photo
- Conceptual Proposed Subdivision Plan from Applicant
- Schedule A Attached to ALC Resolution

**RDEK
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